

## Office of Personnel Management

1633.070

### **1632.172 Clause—experience-rated contracts.**

The clause at 1652.232-71 shall be inserted in all experience-rated FEHBP contracts.

[57 FR 14360, Apr. 20, 1992]

## **Subpart 1632.6—Contract Debts**

### **1632.607 Tax credit.**

FAR 32.607 has no practical application to FEHBP contracts. The statutory provisions at 5 U.S.C. 8906(c) and (d) authorize joint enrollee and Government contributions to the FEHBP Fund. Because the Fund is comprised of contributions by enrollees as well as the Government, carriers may not offset debts to the Fund by a tax credit which is solely a Government obligation.

### **1632.617 Contract clause.**

The clause at (FAR) 48 CFR 52.232-17 will be modified in all FEHBP contracts to exclude the words “net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481).”

[59 FR 14765, Mar. 30, 1994]

## **Subpart 1632.7—Contract Funding**

### **1632.770 Contingency reserve payments.**

(a) Payments from the contingency reserve shall be made in accordance with 5 CFR 890.503.

(b) A carrier for an FEHB plan may apply to OPM at any time for a payment from the contingency reserve that is in addition to those amounts, if any, paid under 5 CFR 890.503(c)(1) through (c)(4), if the carrier can show good cause, such as, unexpected adverse claims experience. OPM will decide whether to allow the request in whole or in part and will advise the carrier of its decision. However, OPM shall not unreasonably withhold approval for amounts requested that exceed the plan's preferred minimum balance for the contingency reserve.

### **1632.771 Non-commingling of FEHBP funds.**

(a) This section applies to contracts based on cost analysis.

(b) Carrier or underwriter commingling of FEHBP funds with those from other sources makes it difficult to precisely determine FEHBP cash balances at any given time or to precisely determine investment income attributable to FEHBP invested assets.

(c) FEHBP funds shall be maintained separately from other cash and investments of the carrier or underwriter. Cash and investment balances reported on FEHBP Annual Accounting Statements must agree with the carrier's books and records.

(d) This requirement may be waived by the contracting officer in accordance with the clause at 1652.232-72 when adequate accounting and other controls are in effect. If the requirement is waived, the waiver will remain in effect until it is withdrawn by OPM. The waiver shall be withdrawn if OPM determines that the accounting controls are no longer adequate to properly account for FEHBP funds.

[52 FR 16043, May 1, 1987, as amended at 70 FR 31382, June 1, 2005]

### **1632.772 Contract clause.**

The clause at 1652.232-72 shall be included in all contracts that are based on cost analysis.

[52 FR 16043, May 1, 1987, as amended at 70 FR 31382, June 1, 2005]

## **Subpart 1632.8—Assignment of Claims**

### **1632.806-70 Contract clause.**

The clause set forth in 1652.232-73 shall be inserted in all FEHBP contracts.

[55 FR 27415, July 2, 1990]

## **PART 1633—PROTESTS, DISPUTES, AND APPEALS**

AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

### **1633.070 Designation of the Board of Contract Appeals.**

The Armed Services Board of Contract Appeals (ASBCA) serves as the Board of Contract Appeals for the